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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,402	08/27/2003	Richard K. Hoofard	87269.4041	5337

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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,402

Applicant(s)

HOOFARD ET AL.

Examiner

Raymond W. Addie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 27-33 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 34 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/14/2003, 4/15/2.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-26, 34, 36 are drawn to a lip keeper support system of loading dock comprising the same, classified in class 14, subclass 69.5.
 - II. Claims 27-33, 35 drawn to a support system for a dock leveler assembly having a support leg, a cam and camming surface, classified in class 14, subclass 71.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as an impact absorbing device preventing or minimizing damage to the lip member should it be impacted by a vehicle, when the lip is in a pendant position. See MPEP § 806.05(d).

Further, although the specification discloses the systems are usable together in a single combination; the specification also discloses each system is equally, separately usable to support a dock leveler. Still further, both systems contain significantly different structural features that operate differently and have different effects on how weight, applied to the dock leveler is transmitted to the loading dock.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with P. Alan Larson on 8/18/2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-26, 34, 36. Affirmation of this election must be made by applicant in replying to this Office action. Claims 27-33 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

2. The information disclosure statements filed on 10/14/2003 and 4/15/2003 are replete with duplicate listings of the same references. Although all the cited references have been considered, the duplicate listings have been "crossed through" to show those

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references are previously cited. Further, although patent #'s 6,440,772 and 6,627,016 have been considered, they do not appear to be within the technology of the claimed invention nor do they appear relevant to the claimed invention.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the lip holder comprises at least three lip supporting positions", as cited in Claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. The informal drawings as embodied in figures 15, 16, 17 are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

Claim Objections

4. Claim 24 is objected to because of the following informalities:

In. 2 the phrase "ramp comprising"; should be --a ramp comprising--. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind

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that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n). In this case Claims 34, 36 depend from dependent claims 2, 19 respectively; further Independent claims 20, 27 separate claims 34, 36 from claims 2 and 19, respectively. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 5, 7, 9, 11-14, 20-22 are rejected under 35 U.S.C. 102(a) as being

anticipated by Ashelin et al. discloses a dock leveler (14) comprising:

A lip keeper support system (90, 98), further comprising:

A lip holder comprising a multi-tiered lip holder means having at least two lip supporting positions. See Fig. 1; Col. 4, ln. 64-col. 5, ln. 15.

In regards to Claims 2, 3, 5, 21, 22 Ashelin et al. discloses the lip holder further comprises at least one body (90) defining at least one lip supporting position. Further wherein the at least one body is at least a 1st body (90) defining a 1st lip supporting position and a second body (98) defining a 2nd lip supporting position.

Ashelin et al. also discloses the at least one lip supporting position defined by body (90)

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defines a lip retaining portion, defined by a raised area and a recessed area and that the raised area is the lip retaining portion. See Fig. 1; Col. 4, ln. 64-col. 5, ln. 15.

In regards to Claim 9 Ashelin et al. discloses the at least two supporting positions are vertically and horizontally displaced from one another.

In regards to Claims 11-13 Ashelin discloses a dock leveler, comprising:

A ramp (16).

A lip (18) pivotally attached to the ramp.

A lip holder (92, 98) comprising at least two lip supporting positions.

Wherein each lip supporting positions is configured to engage the lip.

See Figs. 1, 9. Further wherein the lip (18) is configured to pivot from a raised position to a pendant position through various lowered positions and the at least two lip supporting positions includes a 1st lip supporting position configured to engage the lip in the pendant position, and a 2nd lip supporting position configured to engage the lip in a lowered position. Such that the 1st lip supporting position is configured to cooperate with the lip to support the ramp in a substantially dock level position, and the 2nd lip supporting position is configured to cooperate with the lip to support the ramp at a 1st below dock level position. See Figs. 1, 8.

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In regards to Claim 14 although Ashelin et al. does not explicitly recite the dock leveler as being upwardly-biased; Ashelin et al. does explicitly recite the dock leveler is mechanically-operated via actuators (32, 48) that both raise and lower the ramp and lip members (16, 18). Hence, it is inherent that the dock leveler can be either upwardly, downwardly or neutrally biased, depending upon the type of mechanical operation utilized. See Col. 2, ln. 65-Col. 3, ln. 25.

In regards to Claims 24, Ashelin et al. discloses a method of supporting a dock leveler having a lip pivotally mounted to a ramp comprising:

Securing a 1st lip engagement apparatus (90) below the ramp in a location wherein the 1st lip engagement apparatus engages the lip when the lip is in a pendant position and the ramp is in a substantially dock level position.

Securing a 2nd lip engagement apparatus (98) below the ramp at a location wherein the 2nd lip engagement apparatus engages the lip if the lip should miss the 1st lip engagement apparatus and continue to a below dock level position.

Wherein the below dock level position is about 2.5 inches below dock level.

6. Claims 1, 2, 4, 6, 8, 11, 20, 23, 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn # 4,920,598.

Hahn discloses a lip keeper support system of use with a dock leveler having a pivotal lip (20) comprising:

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A lip holder (28) comprising at least one, multi-tiered body (28) having at least 2 positions capable of supporting the lip (20). See Figs. 2, 3.

Wherein each of said at least 2 lip supporting positions defines a lip retaining portion (N). Further wherein each of the at least 2 lip supporting positions has a profile in the form of an L-shaped profile or a V-shaped profile. See Figs. 1-3.

In regards to Claim 11, Hahn discloses a dock leveler (I), comprising:

A ramp 14).

A lip (20) pivotally attached to the ramp (14).

A lip holder (28) comprising at least 2 lip support positions wherein each of the at least 2 lip supporting positions is configured to engage the lip. See col. 3, ln. 5-col. 50.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashelin et al. # 6,502,268.

Although Ashelin et al. discloses the 1st and 2nd lip engagement members (90, 98) are

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separate elements, it would be obvious to form the lip engagement apparatus as a single unit, in order to simplify construction. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide method of support a dock leveler of Ashelin et al., with the step of providing a single lip engagement body, comprising 1st and 2nd lip engagement positions, in order to simplify construction of the loading dock. See cols. 2-3.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashelin et al. # 6,502,268 in view of Alexander # 6,125,491.

Ashelin discloses a lip keeper support system comprising at least one lip supporting position, but does not disclose the use of a lip stop member. However, Alexander teaches a dock leveler is desirably provided with a stop member (16) disposed above, and behind a lip keeper (17). Said stop member being capable of providing a top supporting position for supporting a header bar (21) of the dock leveler ramp as well as being capable of providing an upper and rearward support position for a lip member (22), such that the lip member (22) is prevented from undesirable rearward motion, when in the pendant position. See Fig. 3; col. 2, ln. 56-col. 3, ln. 3.

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the lip support system of Ashelin et al., with a stop member, as taught by Alexander, in order to prevent undesirable rearward motion of the lip member.

9. Claims 15-19, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn # 4,920,598 in view of Springer et al. # 5,440,772

Hahn discloses a dock leveler (I) having a lip holder (28) for supporting a lip (20) of a dock leveler (I).

What Hahn does not disclose is the use of support legs. However, Springer et al. teaches it is desirable to provide both lip keepers (38) and support leg apparatus (40, 42) such that a dock leveler can be supported at a below dock level position. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the dock leveler of Hahn, with a support leg apparatus, as taught by Springer et al., in order to accommodate loading and unloading vehicles of different heights. See col. 9, ln. 30-col. 11, ln. 32.

In regards to Claim 16 although Hahn does not disclose the use of support legs; Springer et al. teaches it is desirable to provide both lip keepers (38) and support leg apparatus (40, 42) such that a dock leveler can be supported at a below dock level

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position, such that the support legs are biased toward a forward position and configured to retract when the ramp falls slower than a predetermined rate, and configured to maintain the forward position when the ramp falls at or greater than a predetermined rate. See col. 1, Ins. 44-59.

In regard to Claims 17-19 although Hahn does not disclose the use of support legs; Springer et al. teaches support legs (40) are desirably provided to dock levelers having lip keepers (38) such that the support leg apparatus (40, 218) are configured to support the ramp at a plurality of below deck level positions, and the support legs are further configured to pivot be forwardly-biased and automatically-retracting, from a forward position to a retracted position through intermediate positions, wherein the support leg retracts toward the retracted position when the ramp falls slower than a predetermined rate, maintains the forward position when the ramp falls at or greater than a predetermined rate toward the 1st below dock level position, maintains an intermediate support position of the support leg has begun to retract toward the retracted position and then falls at or greater than a predetermined rate toward a 2nd below dock level position.

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the dock leveler of Hahn, with a support leg apparatus, as taught by Springer et al. in order to prevent "stump out" or other undesirable lowering of the dock leveler. See Springer et al. Fig. 19; Col. 2, ln. 25-40; col. 10, ln. 1-col. 11, ln. 33; col. 15, ln. 37-col. 16, ln. 52.

Conclusion

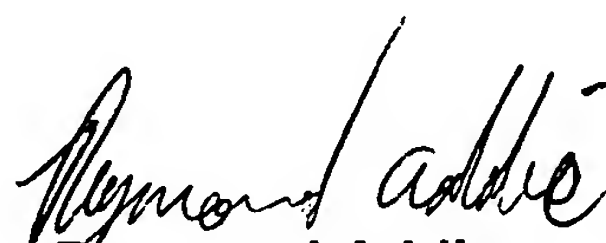
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Massey # US 2004/0117926 A1 discloses a support leg system for a dock leveler. Alexander # US 2002/0148055 A1 discloses a multi-position lip latch for a dock leveler. Alexander # US 2002/0157195 A1 discloses a loading dock with lip protection. Artzberger # 3,877,102 discloses a safety leg support for a dockboard. Springer et al. # 5,311,628 discloses a dock leveler with a support leg system. Hageman # 5,416,941 discloses a dockboard having an improved return to dock level mechanism. Springer # 6,276,016 B1 discloses a safety leg system for dock levelers. Yoon et al. discloses a dock leveler. Alexander # 5,813,072 discloses an automatic safety leg for dock levelers.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Raymond Addie
Patent Examiner
Group 3600

8/20/2004